

RULES & REGULATIONS FOR MODULAR HOMES



ARKANSAS MANUFACTURED HOME COMMISSION

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CHAPTER 1.

AUTHORITY

Act 1235 of 2005 established the authority of Arkansas Manufactured Home Commission to require licensing and/or certification of modular home manufacturers, retailers, and salespeople; and to promulgate and enforce rules and regulations governing the sale of modular homes produced, sold or offered for sale in the state of Arkansas.

The following rules and regulations pertaining to the production and sale and of modular homes are duly adopted and promulgated by the Arkansas Manufactured Home Commission pursuant to the authority expressly conferred by Act 1235 of 2005.

Repealing Clause: All previous rules and regulations pertaining to the production and sale of modular homes are hereby repealed.

CHAPTER 2.

DEFINITIONS

The following terms are defined for the purpose of these regulations. No attempt is made to define ordinary words which are used in accordance with the established dictionary meaning except when the word has been loosely used and it is necessary to define its meaning as used in these regulations to avoid a misunderstanding.

Because the purpose is to define terms rather than words, the definitions are alphabetical using the first word of the term rather than by the noun.

- A. *Agency*: The Director of the Arkansas Manufactured Home Commission or other personnel authorized to act on behalf of the Director.
- B. *Certification*: Means the act of certifying or a state of being certified.
- C. *Commission*: Means Arkansas Manufactured Home Commission.
- D. *Director*: Means the Director of the Arkansas Manufactured Home Commission.
- E. *Manufacturer*: Means any person, firm or corporation who manufactures modular homes.
- F. *Modular Home*: Means a factory-built structure produced in accordance with state or local construction codes or standards and designed to be used as a dwelling unit with a foundation when connected to the required utilities.

- G. *Retailer*: Means any person, firm or corporation in the business of accepting on consignment, buying for resale, selling or exchanging modular homes or offering same to the public for sale, exchange or lease-purchase, whether for himself or on behalf of any other person not certified as a retailer under this Act.
- H. *Revocation*: Means the repeal or reversal of the rights of the manufacturer or retailer to sell or distribute modular homes in the State of Arkansas.
- I. *Salesperson*: Means any person employed by the retailer or manufacturer who is engaged in either the wholesale or retail sale of modular homes.
- J. *Separate Entity*: Means each individual location of a manufacturing plant or each individual retail location.
- K. *Statement of Compliance*: Means the manufacturer or retailer certified and/or licensed by the Arkansas Manufactured Home Commission will comply with Act 1235 of 2005 and the Arkansas Manufactured Home Commission's rules and regulations for modular homes.
- L. *Suspension*: Means to cease or stop temporarily the right to produce or sell modular homes within the State of Arkansas.

CHAPTER 3.

CERTIFICATION AND LICENSING

Section 300. *Certification and Licensing - General*

A. *Types of Certification and License*

Any person, firm or corporation which acts in one or more of the following capacities shall be required to certify or license with the Arkansas Manufactured Home Commission:

1. *Manufacturer* - Any person, firm or corporation not otherwise certified or licensed, in or out of state, delivering or shipping modular homes into the State for sale,
2. *Retailer* - Any person, firm or corporation not otherwise certified or licensed, in the business of accepting on consignment, buying for resale, selling or exchanging modular homes or offering same to the public for sale, exchange or lease-purchase, whether for himself or on behalf of any other person.
3. *Salesperson* - Any person engaged in the selling of modular homes (either as a manufacturer' representative or retailer salesperson) must apply for a license within 30 days of beginning to sell modular homes in the state of Arkansas.

B. Annual Certification or License Renewal Required

1. Each person, firm or corporation certified or licensed by the Commission shall apply for renewal of their certification or license annually and must meet all the criteria for original certification or license.
2. Certifications or licenses shall expire one (1) year from the date of the original certification or license, and must be renewed annually.
3. The Director may authorize the renewal of a certification or license made after the original date upon payment of a late fee of \$10.00 per calendar day of delinquency not to exceed thirty (30) days. After 30 days, the certification or license shall be suspended. Suspension of certification or license may be appealed in accordance with Section 304 (A) (4) of these regulations. Continuing to operate after the suspension of certification or license is in violation of Act 1235 of 2005.

C. Separate Entity

For certification/licensing and compliance purposes, manufacturers, retailers and installers that occupy more than one location shall have each location treated as a separate entity and adhere to all requirements for certification or licensing.

D. Statement Of Compliance

The Statement of Compliance shall be signed by the person or responsible officer having full authority to commit his firm to the conditions of compliance and shall not be transferable. Violation of the Statement of Compliance shall be considered grounds for suspension of the certification or license.

E. Failure To Obtain Certification or License

1. No person, firm or corporation shall act as a manufacturer or retailer without having first secured the required certification or license from the Commission.
2. The Commission shall have the authority to collect fees and assessments from any person, firm or corporation found to be acting as a manufacturer or retailer without having first secured the required certification or license from the Commission.
3. The Commission shall have the authority to impose a monetary penalty not to exceed one thousand dollars (\$1,000.00) for each violation of any provision of Act 1235 of 2005 or the rules and regulations promulgated thereunder.
4. The Commission shall have the authority to file suit in Circuit Court to enjoin any person, firm or corporation acting as a manufacturer or retailer without having first secured the required certification or license from the Commission.

Section 301. *Certification of Manufacturers*

A. *Requirements For Manufacturer Certification*

1. Application shall be on forms supplied by the Agency.
2. Each application shall be accompanied by the following before certification is granted:
 - (a) Statement of Compliance;
 - (b) Compliance with reporting and unit fee requirements; and
 - (b) Fees set forth for certification.
3. Applicant shall be in good standing with the Commission and shall not have any unpaid civil penalties or outstanding obligations to the Commission.

B. *Certification Fee*

1. Original certification fee shall be \$1,000.00.
2. Annual renewal fee shall be \$625.00.

C. *Compliance Assurance*

1. A manufacturer of modular or factory-built structures, other than manufactured housing that is governed by the United States Department of Housing and Urban Development, certified to do business in the State of Arkansas may contract with an independent third-party compliance assurance or inspection agency that is listed with the International Accreditation Service, Inc., for the inspection of modular or factory-built buildings destined for delivery within the state for compliance with the Arkansas Fire Protection Code and applicable state and municipal electrical, plumbing, and mechanical codes. If a manufacturer of modular or factory-built buildings contracts with an independent third-party inspector to monitor compliance with the Arkansas Fire Protection Code and applicable state and municipal electrical, plumbing, and mechanical codes relating to the construction of new buildings, no further inspection by state or local building officials may be required for that part of the structure built in the factory.
2. A copy of the third-party inspector's inspection report shall accompany the building to the construction site for review.
3. The cost of the independent third-party inspection shall be borne by the modular building manufacturer.

D. Violation

Any in-state or out of state person, firm or corporation that produces modular homes and offers them for sale or use in the State without being properly certified with the Commission; or any manufacturer selling or offering modular homes for sale to a person, firm or corporation not certified as a retailer as required under Section 300 shall be considered to be in violation of Act 1235 of 2005.

SECTION 302. *Certification of Retailers*

A. Requirements For Certification of Retailers

1. Application forms shall be supplied by the Agency.
2. Each application shall be accompanied by the following before certification is granted:
 - (a) Statement of Compliance; and
 - (b) Fees set forth for certification.
 - (c) A photograph of entire retail location including, but not limited to, the front of the office and primary business sign;
 - (d) Salespersons' license applications with fees other than the owner(s) of the retail location; and
 - (e) A list of the principal owners of the retail location on a form provided by the Agency.
3. Applicants for retailer certification must maintain:
 - (a) A business office with all utilities including public rest room and a business telephone; and,
 - (b) A permanent business sign in view of public traffic bearing the name of the firm and identifying the firm with the housing industry.
4. Applicant shall be in good standing with the Commission and shall not have any unpaid civil penalties or outstanding obligations to the Commission.
5. Any person applying for a initial certification with the Arkansas Manufactured Home Commission shall be cleared by the Arkansas State Police. If the Arkansas State Police report shows that the person involved has been convicted of a felony, the certification will not be granted without a hearing before the Commission and approval by the Commission.

B. *Certification Fee*

1. Original certification fee shall be \$1,000.00.
2. Annual renewal fee shall be \$250.00.

C. *Violation*

Any person, firm or corporation acting as a retailer without being properly certified with the Commission; any retailer accepting a modular home, directly or indirectly, from a manufacturer not certified with the Commission; or any retailer failing to license a salesperson with the Commission within 30 days of hiring is in violation of Act 1235 of 2005.

SECTION 303. *Licensing of Modular Home Salespeople*

A. *Requirement For Salesperson's License*

1. Application forms shall be supplied by the Agency.
2. Each application shall be accompanied by the following before the license is granted:
 - (a) Fees set forth for licensing.
3. The Commission may require an examination of applicants for modular home salespeople based on knowledge of laws, rules and regulations pertaining to modular homes.
4. Applicant shall be in good standing with the Commission and shall not have any unpaid civil penalties or outstanding obligations to the Commission.

B. *License Fee*

1. Original license and annual renewal fees shall be \$50.00, payable by the manufacturer or retailer. Licenses shall remain the property of the manufacturer or retailer, and shall not be able to be transferred to individuals other than the original licensee.

C. *Violation*

Any in state or out of state person engaged in selling modular homes in the State without being properly licensed with the Commission shall be considered to be in violation of Act 1235 of 2005.

SECTION 304. *Action Against Certification or License*

A. *Suspension, Revocation Of License And Other Penalties*

1. The Commission shall have the power to suspend, revoke or refuse to renew the certification or a manufacturer or retailer or the license of an installer or salesperson who is found to have been guilty of:
 - (a) Fraud, misrepresentation or deception in obtaining a license;
 - (b) Failure to comply with any valid directive of the Director or rules and regulations of the Arkansas Manufactured Home Commission; and
 - (c) Violating any provision of Act 1235 of 2005 or the rules and regulations promulgated thereunder.
2. In lieu of suspension, revocation, or refusal to renew a license or certification, the Commission shall have the authority to impose a monetary penalty not to exceed one thousand dollars (\$1,000) for each violation and may suspend, refuse to renew, or revoke the license or certification until the penalty is paid to the Commission. Such a penalty shall be imposed only if the Commission formally finds that the public welfare would not be impaired by the imposition of a monetary penalty rather than suspension, refusal to renew, or revocation and that payment of same should achieve the desired disciplinary purpose.
 - (a) The Commission shall not impose a civil penalty upon any person, firm or corporation whose certification or license is suspended, revoked or not renewed under this section.
3. Any individual who knowingly and willfully violates the provisions of the Act in a manner which threatens the health or safety of any purchaser shall be deemed guilty of a misdemeanor and upon conviction therefore fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one (1) year or both for each violation.
4. Suspension Appeal
 - (a) Any suspension may be appealed to the Manufactured Home Commission by a written request within ten (10) days. Suspension shall remain in effect until a speedy hearing by the Commission or Compliance Sub-Committee of the Commission. The Chairman of the Commission may waive the suspension after review of the facts pending the hearing. After the revocation hearing, the Commission may revoke the certification or license.
 - (b) A manufacturer, retailer, installer or salesperson may be represented by legal Counsel and present any evidence and/or witnesses in his behalf against any charges.

- (c) The Commission shall not revoke any manufacturer or retailer's certification, or installer or salesperson's license without a hearing.

SECTION 305. *Reports and Fee*

1. The Commission shall require manufacturers, in or out of state, delivering or shipping modular homes into the state and retailers or others in the business of accepting on consignment, buying for resale, selling or exchanging modular homes or offering same to the public for sale, exchange or lease-purchase, whether for himself or on behalf of any other person to make reports as it deems necessary. The reports shall be filed with the Director in a format approved by the Commission.
2. There shall be a fee of \$100.00 per home for each modular home manufactured, delivered, shipped into the state or offered for sale in the state. This fee shall be paid to the Commission by the modular home manufacturer.